

## DECLARATION

As the below-named inventors, we declare that:

Our residences, post office addresses, and citizenships are as stated below under our names.

We believe we are the original, first and joint inventors of the invention entitled "PRODUCTION OF ADENINE NUCLEOTIDE TRANSLOCATOR (ANT), NOVEL ANT LIGANDS AND SCREENING ASSAYS THEREFOR," which is described and claimed in the specification and claims of C-I-P Application No. 09/393,441, which we filed in the United States Patent and Trademark Office on September 8, 1999 and for which a patent is sought; and that this application in part discloses and claims subject matter disclosed in our earlier-filed Application No. 09/185,904, entitled "PRODUCTION OF ADENINE NUCLEOTIDE TRANSLOCATOR (ANT), NOVEL ANT LIGANDS AND SCREENING ASSAYS THEREFOR," which we filed in the United States Patent and Trademark Office on November 3, 1998.

We have reviewed and understand the contents of the above-entitled specification, including the claims, as amended by any amendment specifically referred to herein (if any).

We acknowledge our duty to disclose information of which we are aware which is material to the patentability and examination of this application in accordance with 37 C.F.R. § 1.56(a), including material information which occurred between the filing date of said earlier-filed application and the filing date of the C-I-P application.

We further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of any patent issuing from this patent application.

Christen M. Anderson

Date 1/28/00

Residence : City of Encinitas, County of San Diego  
State of California  
Citizenship : United States of America  
P.O. Address : 756 Poinsettia Park South  
Encinitas, California 92024

Robert E. Davis  
Robert E. Davis

Date February 1, 2000  
Residence : City of San Diego, County of San Diego  
State of California  
Citizenship : United States of America  
P.O. Address : 13272 Glencliff Way  
San Diego, California 92130

William R. Clevenger  
William Clevenger

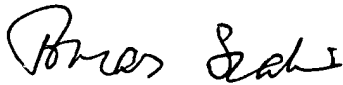
Date Feb 3, 2000  
Residence : City of Oceanside, County of San Diego  
State of California  
Citizenship : United States of America  
P.O. Address : 3544 Windsor Road  
Oceanside, California 92107

Sandra Eileen Wiley  
Sandra Eileen Wiley

Date Feb 1, 2000  
Residence : City of San Diego, County of San Diego  
State of California  
Citizenship : United States of America  
P.O. Address : 3195 Galloway Drive  
San Diego, California 92122

Scott W. Miller  
Scott W. Miller

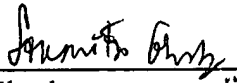
Date 01-28-00  
Residence : City of San Marcos, County of San Diego  
State of California  
Citizenship : United States of America  
P.O. Address : 1205 Calle Fantasia  
San Marcos, California 92069



Tomas R. Szabo

Date 1/28/00

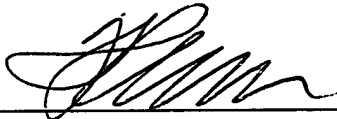
Residence : City of San Diego, County of San Diego  
State of California  
Citizenship : Sweden  
P.O. Address : 3785 Third Avenue  
San Diego, California 92103



Soumitra S. Ghosh

Date 1/28/00

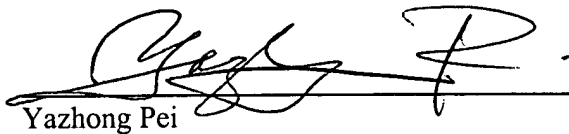
Residence : City of San Diego, County of San Diego  
State of California  
Citizenship : United States of America  
P.O. Address : 12334 Pathos Lane  
San Diego, California 92129



Walter H. Moos

Date 2-3-00

Residence : City of Oakland, County of Alameda  
State of California  
Citizenship : United States of America  
P.O. Address : 724 Grizzly Terrace Drive  
Oakland, California 94611



Yazhong Pei

Date 1/28/2000

Residence : City of San Diego, County of San Diego  
State of California  
Citizenship : Peoples Republic of China  
P.O. Address : 5185 Seachase Street  
San Diego, California 92130

u:\lzm\sjr\mitokor 660088\0781.doc (660088.420C1)



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Christen M. Anderson, Robert E. Davis, William Clevenger, Sandra Eileen Wiley, Scott W. Miller, Tomas R. Szabo, Soumitra S. Ghosh, Walter H. Moos and Yazhong Pei

Application No. : 09/393,441

Filed : September 8, 1999

For : PRODUCTION OF ADENINE NUCLEOTIDE TRANSLOCATOR (ANT), NOVEL ANT LIGANDS AND SCREENING ASSAYS THEREFOR

Docket No. : 660088.420C1

Box Missing Parts  
Assistant Commissioner for Patents  
Washington, DC 20231

ELECTION UNDER 37 C.F.R. §§ 3.71 AND 3.73 AND POWER OF ATTORNEY

The undersigned, being Assignee of the entire interest in the above-identified application by virtue of an Assignment filed concurrently herewith, hereby elects, under 37 C.F.R. § 3.71, to prosecute the application to the exclusion of the inventors.

Assignee hereby appoints RICHARD W. SEED, Reg. No. 16,557; ROBERT J. BAYNHAM, Reg. No. 22,846; EDWARD W. BULCHIS, Reg. No. 26,847; GEORGE C. RONDEAU, JR., Reg. No. 28,893; DAVID H. DEITS, Reg. No. 28,066; WILLIAM O. FERRON, JR., Reg. No. 30,633; PAUL T. MEIKLEJOHN, Reg. No. 26,569; DAVID J. MAKI, Reg. No. 31,392; RICHARD G. SHARKEY, Reg. No. 32,629; DAVID V. CARLSON, Reg. No. 31,153; KARL R. HERMANN, Reg. No. 33,507; DAVID D. MCMASTERS, Reg. No. 33,963; MICHAEL J. DONOHUE, Reg. No. 35,859; STEVEN D. LAWRENZ, Reg. No. 37,376; ELLEN M. BIERMAN, Reg. No. 38,079; ANN T. KADLECEK, Reg. No. 39,244; DAVID W. PARKER, Reg. No. 37,414; FRANK ABRAMONTE, Reg. No. 38,066; E. RUSSELL TARLETON, Reg. No. 31,800; KEVIN S. COSTANZA, Reg. No. 37,801; DALE C. BARR, Reg. No. 40,498; THOMAS E. LOOP, Reg. No. 42,810; STEPHEN J. ROSENMAN, Reg. No. 43,058; BRIAN L. JOHNSON, Reg. No. 40,033; JAMES D. WHITE,

Reg. No. 43,985; KIMTON N. ENG, Reg. No. 43,605; SUSAN D. BETCHER, Reg. No. 43,498; DENNIS M. de GUZMAN, Reg. No. 41,702; JANE E.R. POTTER, Reg. No. 33,332, KENNETH H. TARBET, Reg. No. 43,181, WILLIAM T. CHRISTIANSEN, Reg. No. P-44,614, and ROBERT IANNUCCI, Reg. No. 33,514, comprising the firm of SEED AND BERRY LLP, 6300 Columbia Center, Seattle, Washington 98104-7092, and ANDREW E. GRANSTON, JR., Reg. No. 38,473 of the firm MITOKOR, 11494 Sorrento Valley Road, San Diego, California 92121, as its attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. Please direct all telephone calls to Stephen J. Rosenman, Ph.D. at (206) 622-4900 and telecopies to (206) 682-6031.

Please direct all communications to:

Stephen J. Rosenman, Esq.  
Seed and Berry LLP  
6300 Columbia Tower  
701 Fifth Avenue  
Seattle, Washington 98104-7092

Pursuant to 37 C.F.R. § 3.73, the undersigned duly authorized designee of Assignee certifies that the evidentiary documents have been reviewed, specifically the Assignment to filed concurrently herewith for recording, a copy of which is attached hereto, and certifies that to the best of my knowledge and belief, title remains in the name of the Assignee.

MITOKOR  
ASSIGNEE

February 1, 2000  
DATE

Robert E. Davis  
Robert E. Davis  
President and Chief Science Officer

Enclosure:  
Copy of Assignment

u:\izm\sjr\mitokor 660088\0782.doc

## ASSIGNMENT

WHEREAS, we, Christen M. Anderson, Robert E. Davis, William Clevenger, Sandra Eileen Wiley, Scott W. Miller, Tomas R. Szabo, Soumitra S. Ghosh, Walter H. Moos and Yazhong Pei (hereinafter referred to as ASSIGNORS), having post office addresses of 756 Poinsettia Park South, Encinitas, California 92024, 13272 Glencliff Way, San Diego, California 92130, 3544 Windsor Road, Oceanside, California 92107, 3195 Galloway Drive, San Diego, California 92122, 1205 Calle Fantasia, San Marcos, California 92069, 3785 Third Avenue, San Diego, California 92103, 12334 Pathos Lane, San Diego, California 92129, 724 Grizzly Terrace Drive, Oakland, California 94611, and 5185 Seachase Street, San Diego, California 92130, respectively, are the joint inventors of an invention entitled "PRODUCTION OF ADENINE NUCLEOTIDE TRANSLOCATOR (ANT), NOVEL ANT LIGANDS AND SCREENING ASSAYS THEREFOR," as described and claimed in the specification forming part of a continuation-in-part application for United States letters patent which was filed on September 8, 1999 and assigned Application No. 09/393,441; this application is a continuation-in-part of U.S. Application No. 09/185,904, filed November 3, 1998, which application is pending.

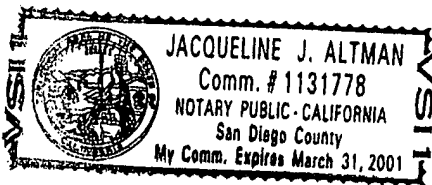
WHEREAS, MITOKOR (hereinafter referred to as ASSIGNEE), a corporation of the State of California having a place of business at 11494 Sorrento Valley Road, San Diego, California 92121, is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNORS hereby sell, assign and transfer unto said ASSIGNEE, the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer and sale not been made. ASSIGNORS hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on

said invention to ASSIGNEE. ASSIGNORS agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

1/28/00  
Date  
Christen M. Anderson  
Christen M. Anderson  
State of California )  
County of San Diego ) ss.

I certify that I know or have satisfactory evidence that Christen M. Anderson is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.



Dated January 28, 2000  
Signature of Jacqueline J. Altman  
Notary Public  
Printed Name Jacqueline J. Altman  
My appointment expires March 31, 2001

February 1, 2000  
Date

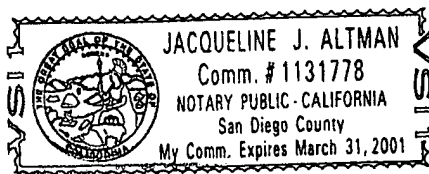
Robert E. Davis  
Robert E. Davis

State of California

County of San Diego

ss.

I certify that I know or have satisfactory evidence that Robert E. Davis is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.



Dated February 1, 2000

Signature of Jacqueline J. Altman  
Notary Public

Printed Name Jacqueline J. Altman

My appointment expires March 31, 2001

Feb 3, 2000  
Date

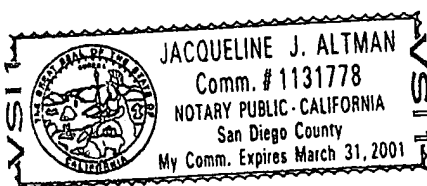
William Clevenger  
William Clevenger

State of California

County of San Diego

ss.

I certify that I know or have satisfactory evidence that William Clevenger is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.



Dated February 3, 2000

Signature of Jacqueline J. Altman  
Notary Public

Printed Name Jacqueline J. Altman

My appointment expires March 31, 2001



Date Feb 1, 2000

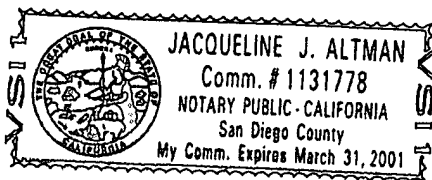
Sandra Eileen Wiley  
Sandra Eileen Wiley

State of California

County of San Diego

ss.

I certify that I know or have satisfactory evidence that Sandra Eileen Wiley is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.



Dated February 1, 2000

Signature of Jacqueline J. Altman  
Notary Public

Printed Name Jacqueline J. Altman

My appointment expires March 31, 2001

Date 01-28-00

Scott W. Miller  
Scott W. Miller

State of California

County of San Diego

ss.

I certify that I know or have satisfactory evidence that Scott W. Miller is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated January 28, 2000

Signature of Jacqueline J. Altman  
Notary Public

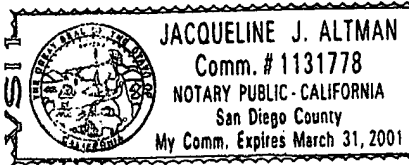
Printed Name Jacqueline J. Altman

My appointment expires March 31, 2001

1/28/00  
Date  
State of California  
County of San Diego )  
Tomas R. Szabo  
SS.

I certify that I know or have satisfactory evidence that Tomas R. Szabo is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

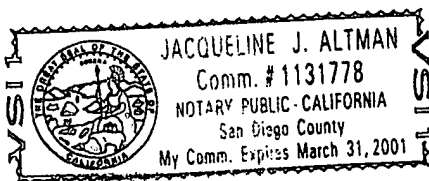
Dated January 28, 2000  
Signature of Jacqueline J. Altman  
Notary Public  
Printed Name Jacqueline J. Altman  
My appointment expires March 31, 2001



1/28/00  
Date  
State of California  
County of San Diego )  
Soumitra S. Ghosh  
SS.

I certify that I know or have satisfactory evidence that Soumitra S. Ghosh is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated January 28, 2000  
Signature of Jacqueline J. Altman  
Notary Public  
Printed Name Jacqueline J. ALTman  
My appointment expires March 31, 2001



2-3-00  
Date

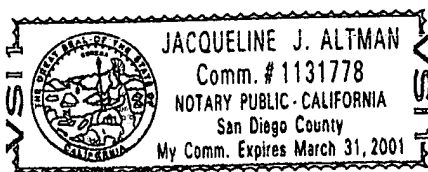
[Signature]  
Walter H. Moos

State of California

County of San Diego

ss.

I certify that I know or have satisfactory evidence that Walter H. Moos is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.



Dated February 3, 2000

Signature of [Signature]  
Notary Public

Printed Name Jacqueline J. Altman

My appointment expires March 31, 2001

1/28/2000  
Date

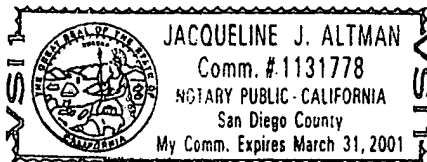
[Signature]  
Yazhong Pei

State of California

County of San Diego

ss.

I certify that I know or have satisfactory evidence that Yazhong Pei is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.



Dated January 28, 2000

Signature of [Signature]  
Notary Public

Printed Name Jacqueline J. Altman

My appointment expires March 31, 2001